

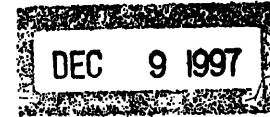
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FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE



EXECUTIVE SESSION

December 4, 1997

SUBMITTED LATE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel *LMN*

SUBJECT: MUR 4594 General Counsel's Report

This Office requests that the attached General Counsel's Report be placed on the Commission's December 9, 1997 Executive Session Agenda. This Report requests contingent civil suit authority with respect to outstanding subpoenas. In order to allow most expeditious completion of the investigation in this matter, as to which counsel for Respondents has raised statute of limitations arguments, this Office requests the Commission suspend its rules to consider the attached Report as a late submission.

Attachment

Staff Assigned: Nancy Bell

21-04-402-4690

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

China Airlines, Ltd.

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MUR 4594

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 3, 1997, the Federal Election Commission approved a Subpoena to Produce Documents and an Order to provide Written Answers ("Subpoenas and Orders") to China Airlines, Ltd. ("CAL"). As discussed in the General Counsel's Report ("GC Report"), dated November 7, 1997, CAL submitted a Motion to Quash. See Attachment 1. After submitting that motion, CAL indicated that it might be willing to partially comply with the Commission's discovery. This Office's staff met with counsel on November 4, 1997. As a result of this meeting and subsequent telephone conversations, counsel submitted a proposal for subpoena compliance on November 6, 1997. See Attachment 2. The proposal limits the scope of each interrogatory and request for documents to the time period since November 1992 rather than back through 1984. At the Executive Session on November 12, 1997 the Commission took this proposal into consideration along with this Office's recommendations concerning CAL's motion to quash and decided to hold its motion to quash in abeyance in lieu of continuing discussions towards the end of partial subpoena compliance.

Towards the end of reaching a reasonable and expeditious agreement regarding the scope of respondent's production of material, staff, on November 18, 1997, conveyed a counter-

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proposal to counsel requesting the production of less-burdensome material back through 1984, but accepting counsel's proposal limiting the scope of the production for the preponderance of the information requested. See Attachment 3. On November 20, staff followed-up with counsel and urged a timely response to this Office's offer. Additionally, on this date, counsel submitted a formal extension of time for 30 days to respond to the subpoena after an agreement as to the scope of the subpoena is reached. See Attachment 4. On November 25, 1997, this Office faxed a letter to counsel reiterating this Office's previous counter-proposal and stating that this Office must receive a response from them by the close of business on Friday, November 28, 1997 in order to grant consideration to their extension request. See Attachment 5. This Office also requested agreement from counsel for waiver of this 30 day period for any defense based on 28 U.S.C. § 2462 or any other statute of limitations and, finally, requested that a response be submitted by the close of business Monday, December 1, 1997. See Attachment 6. Counsel submitted an oral response on December 1, 1997, followed by a writing on December 2, 1992, accepting the terms of this Office's offer with both parties agreeing to an extra 15 day extension for the production of the material due to its location at foreign offices and the necessity of translating the material from Chinese into English. See Attachment 7.

Although it appears that this Office has reached an agreement with counsel regarding the scope of the subpoena issued to CAL, this report recommends that CAL's Motion to Quash be denied and that the Office of the General Counsel be granted contingent authority to file a civil suit to enforce the Commission's Subpoena and Order to CAL in order to expedite enforcement of CAL's subpoena in the event that full compliance with the agreement is not forthcoming.

Additionally, contingent suit authority is being sought with respect to the remaining outstanding subpoenas not yet fully complied with. On October 3, 1997, the Commission also

approved Subpoenas to Louis C.L. Chang, Karl C.P. Wang, Maybelle Pang, Robert C. Hastings, Jr., Salvador Fasi, and Frank Fasi. Subpoena authority for Louis C.L. Chang and Karl C.P. Wang was requested only after informal attempts at contact by this Office had proven unsuccessful. With regard to Maybelle Pang, a motion to quash was denied by the Commission on November 20, 1997 and this Office continues to negotiate compliance with counsel. With respect to Robert C. Hastings, Jr., an evasive and unsatisfactory response was submitted by counsel on November 21, 1997 (Attachment 8) which this Office is currently pursuing. And, finally, no response or correspondence has been received by Salvador Fasi and Frank Fasi. The due dates for all the subpoenas have recently passed.

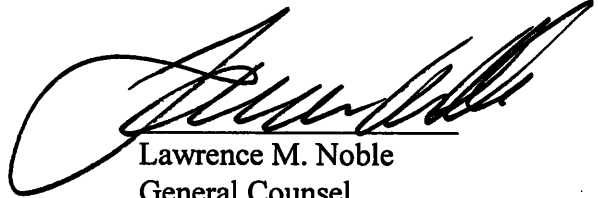
This Office has made and will continue to make every effort to negotiate with the respondents and the non-respondent witnesses regarding the scope of the Subpoena and Order to avoid the necessity of filing civil suit.

III. RECOMMENDATIONS

1. Deny the Motion to Quash of China Airlines, Ltd.
2. Grant the Office of the General Counsel contingent authority to file a civil suit to enforce the Commission's Subpoena and Order to China Airlines, Ltd., Louis C. L. Chang, Karl C. P. Wang, Maybelle Pang, Robert C. Hastings, Jr., Salvador Fasi, and Frank Fasi if they fail to comply within 30 days.

3. Approve the appropriate letters.

12/4/97
Date


Lawrence M. Noble
General Counsel

Attachments:

1. CAL's Motion to Quash
2. Correspondence from CAL, dated November 6, 1997
3. Correspondence to CAL from this Office, dated November 19, 1997
4. Correspondence from CAL, dated November 20, 1997
5. Correspondence to CAL from this Office, dated November 25, 1997
6. Correspondence to CAL from this Office, dated November 26, 1997
7. Agreement from counsel, dated December 2, 1997
8. Response from Robert C. Hastings, Jr.

Staff Assigned: Nancy E. Bell

21-04-402-4694